

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

RHONDA FLEMING, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

Civil No. 7:17-cv-0009-O

DEFENDANTS' AMENDED NOTICE REGARDING NOVEMBER 6, 2017 HEARING

This Court's October 16, 2017 Order [Dkt. 118] (the "Order") set a November 6, 2017 Hearing to consider two motions—"Plaintiffs' Counsels' Motion to Withdraw as Attorney (ECF No. 116), filed October 9, 2017; and Plaintiff Rhonda Fleming's Motion to Remove Counsel (ECF No. 117), filed October 11, 2017"—on which the United States took no position. *See* Order at 1. The Court also directed that "Counsel for Plaintiffs and Defendants must appear and be prepared to discuss all issues related to the pending motion to withdraw and its potential impact on the ongoing settlement negotiations cited in the Motion to Stay (ECF No. 110)." *Id.* On November 1, 2017, the United States filed a notice informing the Court that "[b]ecause Plaintiffs have not effected service on the defendants named in their individual capacities, the United States respectfully provides this Notice to clarify that only counsel appearing on behalf of the United States and the named defendants in their official capacities will attend the November 6, 2017 hearing." (ECF No. 128). The United States subsequently has determined that service has been effectuated for then-Acting Director of the Bureau of Prisons Dr. Thomas Kane and Jody

Upton in their individual capacities,¹ but that service has not been effectuated for Attorney General Jefferson B. Session. Accordingly, in addition to counsel for the United States and the officials in their official capacities, counsel for those individual capacity defendants that have been served intend to appear at the November 6 hearing.

Dated: November 3, 2017

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

JOHN R. PARKER
United States Attorney

JOSHUA E. GARDNER
Assistant Director, Federal Programs Branch

s/ Emily B. Nestler
EMILY NESTLER
D.C. Bar No. 973886
KENNETH E. SEALLS
Trial Attorneys
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave. N.W., Rm. 6136
Washington, D.C. 20530
Tel: (202) 616-8489
Fax: (202) 616-8470
emily.b.nestler@usdoj.gov

Counsel for Defendants

¹ Defendants are reviewing the status of service for Steve Mora in his individual capacity.

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2017, I electronically filed a copy of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel for the parties by operation of the Court's electronic filing system.

/s/ Emily B. Nestler
EMILY B. NESTLER